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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,409	10/18/2000	Jaime A Siegel	SNY-N3422	3951

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MILLER PATENT SERVICES
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EXAMINER	
KIM, AHSHIK	
ART UNIT	**PAPER NUMBER**
2876	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/691,409	SIEGEL, JAIME A	
	Examiner	Art Unit	
	Ahshik Kim	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/17/04 (Amendment)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *45* is/are allowed.

6)☒ Claim(s) *1-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed on September 17, 2004. In the amendment claims 26-33 were amended. Currently, claims 1-28 remain for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 10, 18, 19, 25-28, and 32-41, are rejected under 35 U.S.C. 102(e) as being anticipated by Nathan (US 6,336,219, hereinafter "Nathan").

Re claim1, 8.10, 18, 19, 25-28, 32-35, and 41, Nathan discloses a content player embodied in an audiovisual reproduction system 1 (see abstract), comprising a storage device 21 for storing the audiovisual content (col. 4, lines 24-28), a playback credit means wherein the users can deposit money and purchase credits to play the content (col. 10, lines 23-43). A credit is equal to the fee necessary to play the content (col. 10, lines 43+). When the content is played, credit is decreased.

Re claims 2-4, 21, 36, and 37, the fee payment for credit can be achieved by smart cards and other means (col. 4, lines 63-67). The money accepting interface can be considered a kiosk

Re claims 5-7, and 38-40, the users are advised for selecting additional content depending on the credit available (col. 10, lines 23-43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 9, 22, 29, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nathan (US 6,336,219) in view of Buchheim (US 6,031,306, hereinafter "Buchheim"). The teachings of Nathan have been discussed above.

Nathan fails to specifically teach or fairly suggest that the content player further comprised of a memory stick device.

Buchheim teaches a content playing device for playing digital audio information (see abstract). The device's memory capacity can be expanded by flash memory, compact flash, smart media or memory stick (col. 7, lines 27-35).

In view of Buchheim's teachings, it would have been obvious to an ordinary skill in the art at the time the invention was made to employ well-known stick memory to the teachings of Nathan in order to expand the memory capacity of the content player, and provides portability for the contents. Flash memory, stick memory and other portable storage device provides substantial capacity for the contents. Being versatile, such devices can carry the contents which are not played often or according to the user's specific embodiment.

5. Claims 11, 12, 14, 16, 17, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtin (US 5,986,200, hereinafter "Curtin") in view of Nathan (US 6,336,219).

Curtin discloses a portable content player with playback capability (see abstract; col. 1, lines 58+) wherein the content is delivered via communication network including the Internet (col. 2, lines 16+). While Curtin compares downloading a song as a single to purchasing an entire CD, (col. 5, lines 6+), Curtin is silent on payment aspect of downloading a desired single,

As discussed in paragraph 3 above, Nathan discloses a content playback device wherein the users are required to pay for the content each time the content is played (see paragraph 3 above).

In view of Nathan's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate fee paying means to the teachings of Curtin so that content owner/creator is appropriately paid. Most of the contents are protected by the copyright law, and it is within the law that the content distributing entities pay the fee to the owner for the use of the content. Although Curtin was silent, it is the Examiner's view that such fee paying means perhaps are incorporated in Curtin.

Re claims 14, the communication infrastructure includes LAN, WAN, telephone, cable and satellite communications (col. 4, lines 60+).

6. Claims 15, 23, 24, 30, 31 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtin (US 5,986,200) as modified by Nathan (US 6,336,219) as applied to claim 12 above, and further in view of Peters (US 5,769,269, hereinafter "Peters"). The teachings of Curtin as modified by Nathan have been discussed above.

Curtin/Nathan fails to specifically teach or fairly suggest that that the payment could be made by a magnetic card.

Peters discloses a content purchasing system (see abstract) wherein the payment can be made with credit card (col. 2, lines 31+).

It is the Examiner's view that magnetic card, optical card and smart cards are functionally equivalent device so long as they are used in providing users with same functions. In the instant case, smart card and credit card (magnetic strip card) are used to purchase credits.

Allowable Subject Matter

7. Claim 45 allowed.

8. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at an apparatus and the method for playing content in repeated manner. Such content players for songs, movies or other contents are generally known in the art, and gaining a rapid acceptance among consumers. Many prior arts have been considered. However, the cited references, taken alone or in combination, fails to teach or fairly suggest a particular method of playback of electronic media comprising the steps recited in claim 45.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Ahshik Kim
Patent Examiner
Art Unit 2876
December 13, 2004